



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2237/PB
MED:jld:rs

p4

In 1-13-14

This week

due THURSDAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

✓

1 **AN ACT to repeal** 448.04 (1) (b) 2. and 448.04 (1) (c); **to amend** 448.02 (1), 448.05
2 (1) (c), 448.05 (1) (d), 448.05 (6) (a), 448.06 (1), 448.065, 448.08 (1) (a), 462.01
3 (4) and 655.003 (title); **to repeal and recreate** 448.05 (2); and **to create** 448.02
4 (10), 448.04 (1) (ac), 448.04 (1) (bg) and (bm), 448.05 (2c), 448.05 (6) (at), 448.10
5 (2) and 655.003 (4) of the statutes; **relating to:** licensure of physicians;
6 providing an exemption from emergency rule procedures; and granting
7 rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

Ins Analysis ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 448.02 (1) of the statutes is amended to read:

9 448.02 (1) LICENSE. The board may grant licenses, including various classes
10 of temporary licenses, to practice medicine and surgery or as an administrative

plain comma → to practice ✓
↑ score

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physician^g to practice perfusion, to practice as an anesthesiologist assistant, and to practice as a physician assistant.

SECTION 2. 448.02 (10) of the statutes is created to read:

448.02 (10) SPECIAL PROVISIONS FOR CERTAIN LICENSES. (a) If the holder of a license granted under the authority of s. 448.05 (2) (a) 2. b. subsequently discontinues his or her postgraduate training program at any time prior to the completion of the program, the program director shall notify the board, providing full details of the cause of the discontinuance and the holder's plans, if any, for completion of the postgraduate training program. The board shall review the matter and may take any appropriate action.

(b) A license granted under s. 448.04 (1) (bg) may be issued, renewed, or modified at a meeting of the board or between its meetings by the chairperson of the board. Such an action is considered to be an action of the board.

***NOTE: I included this language as requested from the Nevada law. But note that the language allowing the chairperson to act on his or her own would make this unique among licenses.

If the holder of a license granted under s. 448.04 (1) (bg) ceases to teach, research, or practice medicine and surgery at the medical education facility, medical research facility, or medical school^{✓ college} where he or she is visiting, the medical education facility, medical research facility, or medical school^{✓ college} shall notify the board.

SECTION 3. 448.04 (1) (ac) of the statutes is created to read:

448.04 (1) (ac) Administrative physician license. The board may grant an administrative physician license to an applicant who satisfies the requirements under s. 448.05 (2c). The board shall issue a license under this paragraph subject to the same terms as a license issued under par. (a), except that, notwithstanding any other provision of law that permits a physician to engage in any act that constitutes

The board shall review the matter and may take any appropriate action.

except as otherwise authorized under s. 448.03

the practice of medicine and surgery, the holder of a license issued under this paragraph may not engage in the practice of medicine and surgery and may not practice as provided in s. 448.035.

***NOTE: I wasn't sure exactly how to translate the requirements from Nevada law, and the requirement for a regular license described by Dr. Westlake that a physician be actively practicing does not appear to be in the statutes (so I assume this is an MEB requirement). So, please let me know if any changes are needed here.

SECTION 4. 448.04 (1) (b) 2. of the statutes is repealed.

SECTION 5. 448.04 (1) (bg) and (bm) of the statutes are created to read:

448.04 (1) (bg) *Restricted license to practice medicine and surgery as a visiting physician.* 1. The board may in accordance with s. 448.02 (10) (b), grant a restricted license to practice medicine and surgery as a visiting physician to an applicant who satisfies the requirements under s. 448.05 (2) (e).

2. The holder of a license issued under this paragraph may engage in the practice of medicine and surgery only at the medical education facility, medical research facility, or medical ^{a college} (school) where the ^{a license holder} (person) is teaching, researching, or practicing, and only in accordance with the terms and restrictions established by the board.

3. A license issued under this paragraph may be granted or renewed by the board in accordance with s. 448.02 (10) (b).

3. ~~4.~~ Subject to subd. ⁴⁰ 5, a license issued under this paragraph is valid for one year and may be renewed at the discretion of the board (as provided in subd. 3).

4. ~~5.~~ A license issued under this paragraph remains valid only while the licensee is actively engaged in teaching, researching, or practicing medicine and surgery and is lawfully entitled to work in the United States.

***NOTE: Instead of requiring the licensee to notify the institution and requiring the institution to notify the MEB, I included this provision, similar to what is in par. (bm), below, for RELs. Will that work?

(bm) *Resident educational license to practice medicine and surgery.* 1. The board may grant a resident educational license to practice medicine and surgery to an applicant who satisfies the requirements under s. 448.05 (2) (d).

2. Subject to subd. 3.,[✓] a license issued under this paragraph is valid for one year and may be renewed for additional one-year terms while the[✓] licensee^{license holder} is enrolled in the postgraduate training program under s. 448.05 (2) (d) 1. ^{license holder}

3. A license issued under this paragraph remains valid only while the licensee is actively engaged in the practice of medicine and surgery in the postgraduate training program under s. 448.05 (2) (d) 1. and is lawfully entitled to work in the United States.

4. The holder of a license issued under this paragraph may engage in the practice of medicine and surgery only in connection with his or her duties under the postgraduate training program under s. 448.05 (2) (d) 1.

SECTION 6. 448.04 (1) (c) of the statutes is repealed.

SECTION 7. 448.05 (1) (c) of the statutes is amended to read:

448.05 (1) (c) Achieve a passing grade in ~~the~~ any examinations required in this section.

***NOTE: I made this change because it seems like examinations may not be required for all types of licenses and this accounts for this better. Is that OK?

SECTION 8. 448.05 (1) (d) of the statutes is amended to read:

448.05 (1) (d) ^{Plain} ~~Be~~ Except as otherwise provided in s. 448.02 (10) (b), be found qualified by three-fourths of the members of the board, except that an applicant for a temporary license or certificate under s. 448.04 (1) (b) 1. and 3., (e), and (g), or (i) or a resident educational license under s. 448.04 (1) (bm) must be found qualified by 2 members of the board.

1 **SECTION 9.** 448.05 (2) of the statutes is repealed and recreated to read:

2 **448.05 (2) LICENSE TO PRACTICE MEDICINE AND SURGERY.** (a) Except as provided
3 in pars. (b) to (e), an applicant for any class of license to practice medicine and surgery
4 must supply evidence satisfactory to the board of all of the following:

****NOTE: Let me know if this should not apply to a camp or substitute physician
under s. 448.04 (1) (b) 3.

5 1. That the applicant is a graduate of and possesses a diploma from a medical
6 or osteopathic college that is accredited by the Liaison Committee on Medical
7 Education, the American Osteopathic Association, or a successor organization and
8 that is approved by the board.

9 2. That the applicant satisfies one of the following:

10 a. The applicant has [✓]successfully completed and received credit for 24 months
11 of postgraduate training in one or more programs accredited by the Accreditation
12 Council for Graduate Medical Education, the American Osteopathic Association, or
13 a successor organization.

14 b. The applicant is currently enrolled in a postgraduate training program
15 accredited by the Accreditation Council for Graduate Medical Education, the
16 American Osteopathic Association, or a successor organization; the applicant has
17 successfully completed and received credit for 12 consecutive months of
18 postgraduate training in that program; and the applicant has received an
19 unrestricted endorsement from the postgraduate [✓]educational ^{e training} program director that
20 includes confirmation that the applicant is expected to continue in the program and
21 complete at least 24 months of postgraduate training.

22 3. That the applicant satisfies [✓]any other requirement established by the board
23 for issuing the license.

****NOTE: In order to better distinguish the requirements for a regular license from an administrative license, I added this provision. Is that OK?

(b) Except as provided in pars. (c) to (e), an applicant for a license to practice medicine and surgery who is a graduate of a foreign medical school must supply evidence satisfactory to the board of all of the following:

1. That the applicant is a graduate of and possesses a diploma from a foreign medical school ^{college} credentialed by an agency approved by the board.

2. That the applicant has obtained certification by the Educational Council for Foreign Medical Graduates or a successor organization.

3. That the applicant has passed all steps of the United States Medical Licensing Examination administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organizations.

4. That the applicant has successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or a successor organization, the last 12 months of which were completed in a single program.

5. That the applicant satisfies any other requirement established by the board for issuing the license.

****NOTE: In order to better distinguish the requirements for a regular license from an administrative license, I added this provision. Is that OK?

(c) The board may promulgate rules specifying circumstances in which the board, in cases of hardship or in cases in which the applicant possesses a medical license issued by another jurisdiction, may grant a waiver from any requirement under par. (a) or (b). The board may grant such a waiver only in accordance with those rules.

(d) An applicant for a resident educational license under s. 448.04 (1) (bm) shall provide the board with all of the following:

1. Proof that the applicant has been accepted into a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization.

2. Written confirmation from the institution sponsoring the postgraduate training program into which the applicant has been accepted confirming that the applicant has been or will be appointed to a position in the program.

3. Proof that the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.

(e) An applicant for a restricted license to practice medicine and surgery as a visiting physician under s. 448.04 (1) (bg) shall provide the board with all of the following:

1. Proof that the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.

2. Proof that the applicant teaches medicine, engages in medical research, or practices medicine and surgery outside this state.

***NOTE: Is this correct? I assumed this would not be available to someone practicing or researching who already resides in the state.

3. Documentation that the applicant intends to teach, research, or practice medicine and surgery at a medical education facility, medical research facility, or medical school in this state, which must include a signed letter from the dean or president of the facility or school.

4. Proof that the applicant satisfies any other requirement established by the board for issuing the license.

1 **SECTION 10.** 448.05 (2c) of the statutes is created to read:

2 448.05 **(2c)** ADMINISTRATIVE PHYSICIAN LICENSE. An applicant for an
3 administrative physician license must supply evidence satisfactory to the board that
4 he or she satisfies the requirements for a license to practice medicine and surgery
5 under sub. (2) (a) or (b), subject to any waiver granted under sub. (2) (c), other than
6 any requirement established by the board relating to the active practice of medicine
7 and surgery.

9
****NOTE: Please review this provision and let me know if any changes or other provisions related to this administrative license are needed. Could an administrative physician engage in the practice of medicine and surgery under another physician's delegated practice?

8 **SECTION 11.** 448.05 (6) (a) of the statutes is amended to read:

9 448.05 **(6)** (a) Except as provided in pars. (am) ~~and~~, (ar), and (at), the board
10 shall examine each applicant it finds eligible under this section in such subject
11 matters as the board deems applicable to the class of license or certificate which the
12 applicant seeks to have granted. Examinations may be both written and oral. In lieu
13 of its own examinations, in whole or in part, the board may make such use as it deems
14 appropriate of examinations prepared, administered, and scored by national
15 examining agencies, or by other licensing jurisdictions of the United States or
16 Canada. The board shall specify passing grades for any and all examinations
17 required.

18 **SECTION 12.** 448.05 (6) (at) of the statutes is created to read:

19 448.05 **(6)** (at) When examining an applicant for a license to practice medicine
20 and surgery or an administrative physician license under par. (a), the board may only
21 use examinations prepared, administered, and scored by national examining
22 agencies, except that the board may interview an individual applicant as needed to
23 determine information specific to that applicant.

1 **SECTION 13.** 448.06 (1) of the statutes is amended to read:

2 448.06 (1) GRANT OF LICENSE, CERTIFICATE, OR LIMITED PERMIT. If Subject to s.
3 448.05 (1) (d), if three-fourths of the members of the board find that an applicant who
4 has passed the required examinations is qualified, the board shall so notify the
5 applicant and shall grant the license, certificate, or limited permit.

6 **SECTION 14.** 448.065 of the statutes is amended to read:
7 Fix Component

8 **448.065 Permanent license for certain professors.** A person who
9 possesses a temporary license under s. 448.04 (1) (b) 2., 2011 stats., and who has
10 practiced under such license for 4 or more years may apply for a license to practice
11 medicine and surgery under s. 448.04 (1) (a). If the applicant achieves a passing
12 grade in the examination for a license to practice medicine and surgery and
13 three-fourths of the board find that the applicant is qualified, notwithstanding s.
14 448.05 (1) (b) and (2), the board may grant the license. The board may limit the
15 license and, notwithstanding s. 448.02 (3) (e), may continue such limits indefinitely
16 or may remove the limits when it is satisfied that the reasons for the limits no longer
17 exist, except that the board shall remove any limitations on the geographical areas
18 of this state in which the physician may practice and any limitations on the persons
19 with whom the physician may associate, after a period of 5 years of continuous
 medical practice within this state by the physician.

 ****NOTE: Do you want to repeal this provision instead, or allow licensees under s.
 448.04 (1) (bg), as created in the bill, to obtain a permanent license in this manner?

20 **SECTION 15.** 448.08 (1) (a) of the statutes is amended to read:

21 448.08 (1) (a) "Hospital" means an institution providing 24-hour continuous
22 service to patients confined therein which is primarily engaged in providing facilities
23 for diagnostic and therapeutic services for the surgical and medical diagnosis,

1 treatment and care, of injured or sick persons, by or under the supervision of a
2 professional staff of physicians and surgeons, and which is not primarily a place of
3 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may
4 charge patients directly for the services of their employee nurses, nonphysician
5 anesthetists, physical therapists and medical assistants other than physicians or
6 dentists, and may engage on a salary basis interns and residents who are
7 participating in an accredited training program under the supervision of the medical
8 staff, and persons with a resident educational license issued under s. 448.04 (1) (bm)
9 or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.

10 **SECTION 16.** 448.10 ^{e (1m), (2m) and (3m)} (2) of the statutes ^{are} created to read:

11 448.10 ^(1m) (2) **LICENSES TO PRACTICE MEDICINE AND SURGERY.** (a) ^{e subsection} Notwithstanding
12 s. 448.05 (2), a person who, on the effective date of this paragraph [LRB inserts
13 date], possessed a valid license to practice medicine and surgery under s. 448.05 (2),
14 2011 stats., may retain, practice under, and continue to renew that license, subject
15 to any other provisions in this subchapter or any requirements established by the
16 board governing a license to practice medicine and surgery.

17 ^{e (2m) ← (B)} (b) A person who, on the effective date of this paragraph [LRB inserts date],
18 possessed a valid temporary license to practice medicine and surgery under s. 448.04
19 (1) (b) 2., 2011 stats., may retain, practice under, and continue to renew that license
20 in accordance with s. 448.04 (1) (b) 2., 2011 stats., subject to any other provisions in
21 this subchapter or any requirements established by the board governing that license.

22 ^{e (3m) ← (B)} (c) A person who, on the effective date of this paragraph [LRB inserts date],
23 possessed a valid temporary educational permit to practice medicine and surgery
24 under s. 448.04 (1) (c), 2011 stats., may retain, practice under, and continue to renew
25 that permit in accordance with s. 448.04 (1) (c), 2011 stats., subject to any other

provisions in this subchapter or any requirements established by the board governing that permit, or may apply for a resident educational license under s. 448.04 (1) (bm). ✓

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****NOTE: Please review these three grandfathering provisions and let me know if further changes are needed. You may wish to have DSPS review these. Paragraph (a) lets physicians who currently hold licenses retain those licenses even if they would not be able to qualify for one under the new law. Paragraphs (b) and (c) allow holders of licenses and permits under the repealed provisions to keep them in accordance with prior law. The MEB may also want to take a look at s. 448.10 (1), (4), and (5), stats., and see if those are still relevant. If not, I could repeal them in this bill.

SECTION 17. 462.01 (4) of the statutes is amended to read:

462.01 (4) "Physician" means a person licensed to practice medicine and surgery under s. 448.04 (1) (a) or (b), or (bg).

****NOTE: This provision relates to the practice of radiography and appears to exclude those possessing temporary educational permits under s. 448.04 (1) (c), so I did not include REL holders in this provision. Let me know if this is incorrect or if other changes are needed here. Please also see s. 462.04, stats.

SECTION 18. 655.003 (title) of the statutes is amended to read:

655.003 (title) Exemptions for public employees and facilities and volunteers certain persons and facilities.

SECTION 19. 655.003 (4) of the statutes is created to read:

655.003 (4) A physician who holds an administrative physician license issued under s. 448.04 (1) (ac).

SECTION 20. Nonstatutory provisions.

(1) Using the procedure under section 227.24 of the statutes, the medical examining board may promulgate rules under section 448.40 (1) of the statutes that are necessary to implement the changes in this act and rules under section 448.05 (2) (c), as affected by this act, for the period before the effective date of any permanent rules promulgated under section 448.40 (1) of the statutes, but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension

1 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
2 (b), and (3) of the statutes, the board is not required to provide evidence that
3 promulgating a rule under this subsection as an emergency rule is necessary for the
4 preservation of the public peace, health, safety, or welfare and is not required to
5 provide a finding of emergency for a rule promulgated under this subsection.

****NOTE: This provision gives the MEB the authority to promulgate emergency rules if doing so is necessary to implement the changes in this act. Note that these rules, under this provision, could only be in effect for a maximum of 270 days. If more time would be needed for permanent rules, this provision could be modified to allow the emergency rules to remain in place for a longer period.

6 **SECTION 21. Initial applicability.**

7 (1) The treatment of section 448.05 (6) (a) and (at) of the statutes first applies
8 to an applicant who is admitted to examination for a license to practice medicine and
9 surgery by the medical examining board under section 448.05 (2) of the statutes, as
10 affected by this act, on the effective date of this subsection.

11 (2) The treatment of section 448.05 (2) of the statutes first applies to an
12 application for a license to practice medicine and surgery under section 448.05 (2) of
13 the statutes, as affected by this act, that is received by the medical examining board
14 on the effective date of this subsection.

15 **SECTION 22. Effective date.**

16 (1) This act takes effect on the first day of the 12th month beginning after
17 publication.

18 (END)

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d-note
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2237/P4dn

MED:.....

date

jl

three
two
As requested, I sunsetted the two grandfathering provisions in the bill related to temporary licenses and permits after ~~2~~ ³ years after the bill's general effective date (so, after ~~3~~ ² years after enactment in total). As we also discussed, I did not sunset the one for physicians. Because the sunset for temporary educational permits will appear then to eliminate the concept of a temporary permit (or any kind of permit) from subch. II of ch. 448 completely after ~~3~~ ² years, the MEB and/or DSPS may wish to review whether the various references to a "limited permit" or "permit" in that subchapter could then be eliminated. If they are not, I would suggest we also amend the draft to eliminate all references in that subchapter to "permits" as well if they are no longer relevant.

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INSERT ANALYSIS

* Under current law, physicians are licensed under the authority ^{of} by the Medical Examining Board (MEB), a credentialing board attached to the Department of Safety and Professional Service. A physician's credential to practice is known as a license to practice medicine and surgery. This bill makes various changes regarding the licenses to practice medicine and surgery and related credentials issued by the MEB. Significant changes in the bill are described as follows:

REGULAR LICENSES TO PRACTICE MEDICINE AND SURGERY ✓

Current law

Current law provides that an applicant for any class of license to practice medicine and surgery must supply evidence satisfactory to the MEB that the applicant is a graduate of and possesses a diploma from a medical or osteopathic college approved by the MEB and has completed postgraduate training of 12 months in a facility approved by the MEB. Current law also contains provisions for issuing licenses to practice medicine and surgery to graduates of foreign medical schools that are not approved by the MEB. Such a graduate of a foreign medical school may be admitted to examination for a license to practice medicine and surgery if he or she satisfies certain requirements. ✓

The bill - licensure of accredited medical and osteopathic college graduates

The bill repeals the provisions described above and replaces them with the following requirements that an applicant other than a graduate of a foreign medical college must satisfy in order to be eligible for a regular license to practice medicine and surgery: ✓

1. That the applicant is a graduate of and possesses a diploma from a medical or osteopathic college that is accredited by the Liaison Committee on Medical Education, ✓ the American Osteopathic Association, ✓ or a successor organization and that is approved by the MEB. ✓

2. That the applicant either: a) ^{e has} have successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education, ✓ the American Osteopathic Association, or a successor organization; or b) be currently enrolled in a postgraduate training program accredited by the ✓ Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization; ^{e has} have successfully completed and received credit for 12 ✓ consecutive months of postgraduate training in that program; and ^{e has} have received an unrestricted endorsement from the postgraduate training program director that includes confirmation that the applicant is expected to continue in the program and complete at least 24 ✓ months of postgraduate training. ✓ ^{satisfies}

3. That the applicant ^{satisfies} satisfy any other requirement established by the MEB.

The bill - licensure of graduates of foreign medical colleges

The bill repeals the provisions described above and replaces them with the following requirements that an applicant who is a graduate of a foreign medical college must satisfy in order to be eligible for a regular license to practice medicine and surgery: ✓

↓

1. That the applicant be a graduate of and possess a diploma from a foreign medical college credentialed by an agency approved by the MEB. ✓
2. That the applicant ~~have~~ ^{has} obtained certification by the Educational Council for Foreign Medical Graduates or a successor organization. ✓
3. That the applicant ~~have~~ ^{has} passed all steps of the United States Medical Licensing Examination administered by the National Board of Medical Examiners and the Federation of State Medical Boards, or their successor organizations. ✓
4. That the applicant ~~have~~ ^{has} successfully completed and received credit for 24 months of postgraduate training in one or more programs accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or a successor organization, the last 12 months of which were completed in a single program. ✓
5. That the applicant ~~satisfy~~ ^{satisfies} any other requirement established by the MEB for issuing the license.

The bill - exceptions

The bill allows the MEB to promulgate rules specifying circumstances in which the MEB, in cases of hardship or in cases in which the applicant possesses a medical license issued by another jurisdiction, may grant a waiver from any requirement described above for a regular license to practice medicine and surgery. The MEB may grant such a waiver only in accordance with those rules.

The bill also grandfathers existing holders of a regular license to practice medicine and surgery so that they may retain and continue to renew their licenses notwithstanding the requirements in the bill described above.

CREDENTIALS FOR MEDICAL RESIDENTS ✓

Current law - temporary educational permits

Under current law, the MEB may grant a temporary educational permit to practice medicine and surgery (TEP) to a person who meets the requirements for a license to practice medicine and surgery, other than required examinations. A TEP may be issued for a period not to exceed one year and may be renewed annually for not more than four years. A TEP permits the holder to take postgraduate educational training in a facility approved by the MEB, and the holder of a TEP may, under the direction of a licensed physician, perform services requisite to that training, but must confine training and practice to the facility in which the holder is taking the training.

The bill - resident educational licenses

The bill repeals the provisions for granting a TEP and replaces them with provisions allowing the MEB to grant a resident educational license (REL). An applicant must, under the bill, satisfy the following requirements in order to be granted an REL:

1. Provide proof that he or she has been accepted into a postgraduate training program accredited by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or a successor organization. ✓



2. Provide written confirmation from the institution sponsoring the postgraduate training program into which he or she has been accepted confirming the appointment to that program.✓

3. Provide proof that he or she is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the MEB.✓

The bill provides that an REL is valid for one year and may be renewed for additional one-year terms while the REL holder is enrolled in his or her postgraduate training program.✓ The bill also provides that an REL remains valid only while the REL holder is actively engaged in the practice of medicine and surgery in his or her postgraduate training program and is lawfully entitled to work in the United States. Finally, the bill provides that the holder of an REL may engage in the practice of medicine and surgery only in connection with his or her duties under his or her postgraduate training program.✓

The bill grandfathers existing TEP permit holders so that they may retain and renew their TEPs for up to three years following enactment of the bill.

LICENSES FOR VISITING PHYSICIANS

Current law - temporary licenses for visiting professors

Under current law, an applicant who is a graduate of a foreign medical school and who, because of noteworthy professional attainment, is invited to serve on the academic staff of a medical college in this state as a visiting professor, may be granted a temporary license to practice medicine and surgery (visiting professor license). A visiting professor license remains in force only while the holder is serving fulltime on the academic staff of a medical college and the license holder's practice is limited to the duties of the academic position.✓

The bill - restricted licenses to practice as a visiting physician

The bill repeals the provisions for granting a visiting professor license and replaces them with provisions allowing the MEB to grant a restricted license to practice medicine and surgery as a visiting physician (visiting physician license).✓ An applicant must, under the bill, satisfy the following requirements in order to be granted a visiting physician license:

1. Provide proof that he or she is a graduate of and possesses a diploma from a medical or osteopathic college that is approved by the board.✓

2. Provide proof that he or she teaches medicine, engages in medical research, or practices medicine and surgery outside this state.✓

3. ~~Proof~~ ^{Provide} that the applicant is licensed to practice medicine and surgery outside this state.✓

4. Provide documentation that he or she intends to teach, research, or practice medicine and surgery at a medical education facility, medical research facility, or medical college in this state, which must include a signed letter from the dean or president of the facility or college.✓

5. Provide proof that he or she satisfies any other requirement established by the MEB for issuing the license.✓

The bill provides that the holder of a visiting physician license may engage in the practice of medicine and surgery only at the medical education facility, medical research facility, or medical college where he or she is teaching, researching, or

practicing, and only in accordance with the terms and restrictions established by the MEB. The bill provides that a visiting physician license is valid for one year and may be renewed at the discretion of the MEB. Finally, the bill provides that a visiting physician license remains valid only while the license holder is actively engaged in teaching, researching, or practicing medicine and surgery and is lawfully entitled to work in the United States.

The bill grandfathers existing visiting professor license holders so that they may retain and renew their visiting professor licenses for up to three years following enactment of the bill.

ADMINISTRATIVE PHYSICIAN LICENSE

The bill allows the MEB to grant a new type of license known under the bill as an administrative physician license (APL). The MEB may grant an APL to an applicant who satisfies the requirements for a regular license to practice medicine and surgery, other than any requirement established by the MEB relating to the active practice of medicine and surgery.

The bill provides that the holder of an APL may not, under that APL, take any action that constitutes the practice of medicine and surgery.

EXAMINATIONS FOR A LICENSE TO PRACTICE MEDICINE AND SURGERY

The bill provides that, when examining an applicant for a license to practice medicine and surgery or an administrative physician license, the MEB may only use examinations prepared, administered, and scored by national examining agencies, subject to the exception that the MEB may interview an individual applicant as needed to determine information specific to that applicant.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

(end ins Analysis)
INSERT 1-8

1 SECTION 1. 440.08 (2) (a) (intro.) of the statutes is amended to read:

2 440.08 (2) (a) (intro.) Except as provided in par. (b) and in ss. 440.51, 442.04,

3 444.03, 444.11, 447.04 (2) (c) 2., 448.065, subch. II of ch. 448, 449.17 (1m) (d), and

4 449.18 (2) (d), and, the renewal dates for credentials are as follows:

History: 1991 a. 39 ss. 3305, 3313; 1991 a. 78, 160, 167, 269, 278, 315; 1993 a. 3, 16, 102, 105, 107, 443, 463, 465; 1993 a. 490 ss. 228 to 230, 274, 275; 1995 a. 27, 233, 321, 322, 461; 1997 a. 27, 75, 81, 96, 156, 191, 237, 261, 300; 1999 a. 9, 32; 2001 a. 16, 70, 74, 80, 89; 2003 a. 150, 270, 285, 327; 2005 a. 25, 31, 242, 292, 297, 407; 2007 a. 20, 174, 189; 2009 a. 28, 29, 106, 130, 174, 282, 355, 360; 2011 a. 160, 190, 258; 2013 a. 20; s. 35.17 correction in (3) (b).

***NOTE: There appear to be various MEB credentials, both under the bill and under current law, that do not necessarily use the two-year renewal cycle with a set renewal date. I therefore added a cross-reference here to subch. II of ch. 448 to reflect the fact that some of these MEB credentials do not have a set 2-year renewal date. I also struck the cross-reference here to s. 448.065, stats., as it is being repealed in the bill.

INSERT 3-3

INSERT 3-3

****NOTE: Section 448.03 (2), stats., contains a list of provisions describing when a license to practice medicine and surgery is not required. I added a cross-reference to that provision here to clarify that administrative physicians could still act under any of these provisions (like anyone else), including section 448.03 (2) (e), which relates to delegated practice. Is that OK?

stats.)

INSERT 7-16

- 1 NO
4 Proof that the applicant is licensed to practice medicine and surgery outside
2 this state.

INSERT 9-5

****NOTE: I moved this material to a new section because it didn't seem to really relate to the authority of the Board, but rather to notification requirements. In addition, I added a sentence to the end of sub. (2) to match what was already in sub. (1). Let me know if that change is not desired.

INSERT 10-9

- 3 SECTION (2) ^{auto ref A} 448.08 (1) (a) of the statutes, as affected by 2013 Wisconsin Act ...
4 (this act), is amended to read:
5 448.08 (1) (a) "Hospital" means an institution providing 24-hour continuous
6 service to patients confined therein which is primarily engaged in providing facilities
7 for diagnostic and therapeutic services for the surgical and medical diagnosis,
8 treatment and care, of injured or sick persons, by or under the supervision of a
9 professional staff of physicians and surgeons, and which is not primarily a place of
10 rest for the aged, drug addicts or alcoholics, or a nursing home. Such hospitals may
11 charge patients directly for the services of their employee nurses, nonphysician
12 anesthetists, physical therapists and medical assistants other than physicians or
13 dentists, and may engage on a salary basis interns and residents who are
14 participating in an accredited training program under the supervision of the medical
15 staff, and persons with a resident educational license issued under s. 448.04 (1) (bm)
16 ~~or a temporary educational certificate issued under s. 448.04 (1) (c), 2011 stats.~~



✓

1 **SECTION 3.** 448.10 (1), (4) and (5) of the statutes are repealed.

INSERT 10-16

****NOTE: As requested, I repealed s. 448.065. ✓ However, I added them to the grandfathering provision here for physician licenses so that anyone issued a license specifically under the authority of that provision would be able to retain it. If that is not necessary, let me know and I can take that reference out, but it probably won't hurt to have it there either way.

INSERT 11-3

2 **SECTION 4.** 448.10 (1m) ✓ of the statutes, as created by 2013 Wisconsin Act ...
3 (this act), is renumbered 448.10. ✓

4 **SECTION 5.** 448.10 (2m) ✓ of the statutes, as created by 2013 Wisconsin Act ...
5 (this act), is repealed.

6 **SECTION 6.** 448.10 (3m) ✓ of the statutes, as created by 2013 Wisconsin Act ...
7 (this act), is repealed.

INSERT 12-15

8 **SECTION 7. Effective dates.** This act takes effect on the first day of the 12th
9 month beginning after publication, except as follows:

10 (1) The repeal of section ✓ 448.10 (2m) and (3m) ✓ of the statutes, the renumbering
11 of section 448.10 ✓ (1m) of the statutes, and the amendment of section ✓ 448.08 (1) (a) ✓
12 of the statutes (by SECTION 2) take effect on the first day of the 36th month beginning
13 after publication.

move
e
auto ref A

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2237/P4dn
MED:jld:rs

January 15, 2014

As requested, I sunsetted the two grandfathering provisions in the bill related to temporary licenses and permits after two years after the bill's general effective date (so, after three years after enactment in total). As we also discussed, I did not sunset the one for physicians. Because the sunset for temporary educational permits will appear then to eliminate the concept of a temporary permit (or any kind of permit) from subch. II of ch. 448 completely after three years, the MEB and/or DSPS may wish to review whether the various references to a "limited permit" or "permit" in that subchapter could then be eliminated. If they are not, I would suggest we also amend the draft to eliminate all references in that subchapter to "permits" as well if they are no longer relevant.

Michael Duchek
Legislative Attorney
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E-mail: michael.duchek@legis.wisconsin.gov

Duchek, Michael

From: Scholz, AJ
Sent: Friday, January 17, 2014 11:51 AM
To: Duchek, Michael
Cc: Mark Grapentine
Subject: LRB 2237/P4

Hey Mike,

In conjunction with the information that Dr. Westlake gets you from DSPS regarding whether or not to remove the permit references, I did have one questions about the draft.

On page 9 line 16, it states "that the applicant satisfies any other requirement established by the board for issuing the license". This phrase also appears on page 8 line 22. Also a similar provision appears on page 6 line 19 "only in accordance with the terms and restrictions established by the board" and again on page 11 line 4, "other than any requirement established by the board relating to the active practice of medicine and surgery".

All that to say, does these requirements established by the Board have to be established through the rule making process? I want to just make sure we aren't giving the MEB free reign to establish additional criteria for these licenses. If you could clarify that for me, I would really appreciate it.

I have cc'd Mark Grapentine of the Wisconsin Medical Society as I know he had similar concerns about would also appreciate clarification on that issue.

Thanks for all your help on this draft.

AJ Scholz

Office of Representative Erik Severson
608-267-2365
221 North, State Capitol

Talked to AJ -
add "by rule"